

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 19-48658

SANDRA JEAN HOLYFIELD,

Chapter 7

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING THE CHAPTER 7 TRUSTEE'S MOTION FOR  
RECONSIDERATION OF THE JUNE 19, 2019 ORDER  
WAIVING THE DEBTOR'S FILING FEE**

On June 10, 2019, the Debtor filed an application to waive the Chapter 7 filing fee (Docket # 5, the "Filing Fee Waiver Application"). On June 19, 2019, the Court entered an order granting the Filing Fee Waiver Application (Docket # 14, the "June 19 Order"). On July 29, 2019, the Chapter 7 Trustee filed a motion for reconsideration of the June 19 Order (Docket # 17, the "Motion"). On August 20, 2019, the Debtor filed a response objecting to the Motion (Docket # 20, the "Debtor's Objection").

On August 21, 2019, the Court held a hearing on the Motion. The Debtor's attorney appeared at the hearing. The Trustee did not appear at the hearing. At the end of the hearing, the Court took the Motion under advisement. For the following reasons, the Court will deny the Trustee's Motion.

The Trustee's Motion argues that the Debtor's pay stubs attached to the Motion show that the Debtor's income is too high for the Debtor to be eligible for a waiver of the filing fee under 28 U.S.C. § 1930(f)(1). To be eligible for a filing-fee waiver under that statute, the Debtor's income must be "less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved." The Debtor's family size is one, and the monthly income limit for that family size that applies in 2019 is \$1,561.00 per month.

Using the method of calculating the Debtor's monthly income that the Court described in detail on the record during the hearing, the Court finds and concludes as follows.

First, considering only the 5 pay stubs attached to the Trustee's Motion, which cover 5 two-week pay periods, from March 17, 2019 through May 25, 2019, the Debtor's average monthly income was \$1,595.60 per month, which exceeds the \$1,561.00 limit.

Second, considering only the 5 pay stubs attached to the Debtor's Objection, which cover 5 two-week pay periods from May 26, 2019 through August 3, 2019, the Debtor's average

monthly income was \$1,380.07 per month, which does **not** exceed the \$1,561.00 limit.

Third, considering all 10 pay stubs (the 5 filed by the Trustee and the 5 filed by the Debtor), the Debtor's average monthly income for the 20-week period of March 17, 2019 through August 3, 2019 was \$1,487.84 per month. This does **not** exceed the \$1,561.00 limit.

The Court finds that in this case the most appropriate basis for calculating the Debtor's average monthly income, for purposes of the filing-fee waiver issue, is to use the 20-week average determined from all 10 of the pay stubs presented by the parties. Based on this, the Court finds and concludes that the Debtor's income is **less than** the statutory maximum, so that the Debtor is eligible for a waiver of the filing fee. The Court also finds and concludes, as it did in the June 19 Order, that the Debtor is unable to pay the filing fee in installments.

For these reasons, the Court will not change its earlier ruling, in the June 19 Order, granting the Debtor's Filing Fee Waiver Application. The Trustee's Motion will be denied.

Accordingly,

IT IS ORDERED that the Trustee's Motion (Docket # 17) is denied.

**Signed on August 21, 2019**



/s/ **Thomas J. Tucker**

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**Thomas J. Tucker**  
**United States Bankruptcy Judge**